

UNITED STATES DISTRICT COURT
DISTRICT OF NEVADA

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UNITED STATES OF AMERICA,

Plaintiff,

v.

JUSTIN ANTHONY FISHER,

Defendant.

Case No. 2:17-cr-00073-APG-GWF

**ORDER DENYING MOTION FOR
REVIEW OF MAGISTRATE JUDGE'S
DETENTION ORDER**

(ECF Nos. 12, 18)

On February 15, 2017, defendant Justin Anthony Fisher made his Initial Appearance and the Government requested that he be detained pending trial. ECF No. 4. Magistrate Judge Hoffman initially verbally ordered Fisher released with conditions, but stayed release pending the Government's appeal to the District Judge. *Id.* Before his written order for release was entered, Magistrate Judge Hoffman reconsidered his decision and ordered that Fisher be detained pending trial. ECF No. 9. Fisher contends that Magistrate Judge Hoffman did not have authority to reconsider his initial decision, and now asks me to remand this matter back to Magistrate Judge Hoffman so the parties can make an appropriate record. ECF No. 12.¹

Contrary to Fisher's argument, Magistrate Judge Hoffman did not reopen the detention hearing. He neither accepted nor considered any new evidence or argument. He merely reevaluated his initial decision. No extraordinary delay was incurred; his written detention order was entered the day after the Initial Appearance and while the stay of release was in place. Nothing in 18 U.S.C. § 3142 prohibits a judge from reconsidering his decision in this context. Indeed, prudence and judicial efficiency strongly support allowing Magistrate Judges (indeed all judges) the opportunity to reflect upon and possibly change their decisions before they become final. There is no need to remand this matter to Magistrate Judge Hoffman, so Fisher's request will be denied.

¹ Fisher also moved for leave to file a reply in support of his motion. ECF No. 18. I grant that motion but Fisher, not the clerk of the court, is responsible for filing his reply in the court's record.

1 Fisher also seeks a stay of the 14-day deadline to seek review on the merits of Magistrate
2 Judge Hoffman's detention order. ECF No 12 at 5:8-9. That request will be granted.

3 IT IS HEREBY ORDERED that Fisher's motion for leave to file a reply (**ECF No. 18**) is
4 **GRANTED**. Fisher shall file via CM/ECF the reply attached to his motion.

5 IT IS FURTHER ORDERED that Fisher's motion for review of Magistrate Judge
6 Hoffman's detention order (**ECF No. 12**) is **GRANTED IN PART AND DENIED IN PART**.

7 This matter will not be remanded back to Magistrate Judge Hoffman. The deadline for Fisher to
8 seek review of the detention order is 14 days from the date of entry of this order.

9 Dated: March 15, 2017.

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12 ANDREW P. GORDON
13 UNITED STATES DISTRICT JUDGE
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